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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Sixty-fifth year

Report of the International Tribunal for the Former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the seventeenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, submitted by the President of the Tribunal in accordance with article 34 of the statute of the Tribunal (see S/25704 and Corr.1, annex) which states that:

> The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly.

* A/65/150.

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Letter of transmittal

31 July 2010

Excellencies,

I have the honour to submit the seventeenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, dated 31 July 2010, to the General Assembly and the Security Council, pursuant to article 34 of the statute of the International Tribunal.

Please accept, Excellencies, the assurances of my highest consideration.

(*Signed*) Patrick **Robinson**
President

President of the General Assembly
United Nations
New York

President of the Security Council
United Nations
New York

Seventeenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Summary

The seventeenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 covers the period from 1 August 2009 to 31 July 2010.

The Tribunal continued to focus upon the completion of all trials and appeals. The Appeals Chamber delivered three judgements involving six persons, and the Trial Chambers delivered the judgement in *Prosecutor v. Popović et al.*, involving seven accused persons. The Tribunal conducted 10 trials in its three courtrooms. At the close of the reporting period, 14 persons are in appeal proceedings, 18 persons are on trial, and three accused are at the pretrial stage. Two accused — Ratko Mladić and Goran Hadžić — remain at large.

Judge Patrick Robinson (Jamaica) and Judge O-Gon Kwon (Republic of Korea) were re-elected to the positions of President and Vice-President of the Tribunal, respectively, on 26 October 2009. The Registrar, John Hocking, and the Prosecutor, Serge Brammertz, continued to fulfil their duties at the Tribunal.

The Office of the Prosecutor made progress towards the completion of the Tribunal's mandate at both the trial and appellate levels. The Office of the Prosecutor continued to further develop interaction with the authorities of the States of the former Yugoslavia to encourage cooperation with the Tribunal and support domestic war crimes prosecutions.

Under the authority of the President, the Registry continued to play a crucial role in the provision of administrative and judicial support to the Tribunal. The Registrar provided operational support to the Chambers and the Office of the Prosecutor and managed the Tribunal in all administrative areas. The Immediate Office of the Registrar coordinated the work of the various Registry sections and dealt with a vast range of legal, policy, and operational matters, including the Tribunal's downsizing policies. The Communications Service carried out a diverse range of activities with a view to increasing the profile of the Tribunal and bringing its judgements to the relevant communities. The Archives and Records Management Unit established a records management system to ensure that an information security strategy is in place to properly manage the Tribunal's records. The Court Management and Support Services Section supported up to 10 trials, as well as numerous pretrial, contempt, and appeal hearings. The Conference and Language Services Section continued to provide the required interpretation, translation, and court reporting services. The Victims and Witnesses Section facilitated hundreds of witnesses travelling to The Hague to give evidence. The Office for Legal Aid and Detention Matters serviced multiple defence teams in cases in pretrial, trial, and appellate proceedings. The United Nations Detention Unit continued to operate at a high level of activity, serving the judicial process on a daily basis and providing secure custodial care to all detained persons. The Division of Administration

coordinated the preparation of the second performance report for the biennium 2008-2009 and the revised estimates submission for the biennium 2010-2011 to support the revised trial forecast in terms of post and non-post items.

All organs of the Tribunal faced significant challenges in the reporting period in meeting the objectives of the completion strategy due to the devastating impact of staff attrition. In response, the President urged the Security Council to take measures to help it retain its staff. On 29 June 2010, the Security Council adopted resolution 1931 (2010), in which it called upon the United Nations Secretariat and other relevant United Nations bodies to continue to work with the Registrar of the Tribunal in order to find practicable solutions to address this issue as the Tribunal approaches the completion of its work.

To date, the Tribunal has concluded proceedings against 126 of the 161 persons indicted by the Tribunal. The report that follows details the activities of the Tribunal during the reporting period and demonstrates the Tribunal's focus on its goal of completing its proceedings as soon as possible, without sacrificing due process.

Contents

		Page
I.	Introduction	6
II.	Activities involving the entire Tribunal	6
	A. President	6
	B. Bureau	9
	C. Coordination Council	9
	D. Plenary sessions	9
	E. Rules Committee	10
	F. Residual mechanism	10
III.	Activity of Chambers	10
	A. Composition of the Chambers	10
	B. Principal activity of the Trial Chambers	11
	C. Principal activity of the Appeals Chamber	15
IV.	Activity of the Office of the Prosecutor	16
	A. Completion of trials and appeals	16
	B. Cooperation	16
	C. Transfer of cases and investigative files	19
	D. Supporting national prosecutions	19
V.	Activity of the Registry	19
	A. Office of the Registrar	20
	B. Judicial support services sections	20
	C. Division of Administration	22

I. Introduction

1. The seventeenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 outlines the activities of the Tribunal for the period from 1 August 2009 to 31 July 2010.

2. During the reporting period, the Tribunal continued to implement its completion strategy endorsed by the Security Council in resolution 1503 (2003). The Appeals Chamber delivered three judgements involving six persons. The Trial Chambers delivered the judgement in *Prosecutor v. Popović et al.*, involving seven accused persons, and at their peak ran 10 trials in the Tribunal's three courtrooms, taking advantage of interstices in trial schedules. At the close of the reporting period, appeal proceedings are ongoing for 14 persons, 18 are currently on trial, and three accused are at the pretrial stage. Unfortunately, two more accused remain at large: Ratko Mladić and Goran Hadžić. The failure to arrest the remaining two fugitives remains a grave concern to the Tribunal. To date, the Tribunal has concluded proceedings against 126 of the 161 persons indicted by the Tribunal.

3. Judge Patrick Robinson (Jamaica) and Judge O-Gon Kwon (Republic of Korea) were re-elected to the positions of President and Vice-President of the Tribunal, respectively, on 26 October 2009. The Registrar, John Hocking, and the Prosecutor, Serge Brammertz, continued to fulfil their duties at the Tribunal, focusing on the expeditious completion of trial and appellate activities. Measures were taken during the reporting period to reform the Tribunal's procedures in order to maximize efficiency, and the recommendations of the Working Group on Speeding Up Trials were implemented.

4. As part of its completion strategy, the Tribunal assessed its remaining workload and determined the necessity of redeploying resources to the Appeals Chamber. This strategy is contained in the Tribunal's budget for the biennium 2010-2011 and will expedite the work of the Tribunal and save significant resources.

II. Activities involving the entire Tribunal

A. President

5. President Robinson continued to focus his efforts upon the core functions of the Tribunal — trial and appeals — and instituted a number of reforms during the reporting period.

1. Internal reforms

6. During the last reporting period, the President established a working group to assess the procedural and substantive aspects of contempt proceedings and to recommend methods of expediting their adjudication. A result of this initiative was that, on 10 December 2009, the judges adopted a new rule of procedure and evidence — rule 92 quinquies — in order to regulate the admission of evidence in a trial where witnesses have been made unavailable owing to intimidation and bribery.

7. The President reconstituted the Working Group on Speeding Up Trials to undertake a third review of the Tribunal's practices in order to assess whether

further improvements could be implemented in the work of the Chambers. The Working Group submitted its report on 21 May 2010 and recommended a number of reforms to the Tribunal's procedures. On 7 June 2010, the judges adopted the recommendations and decided to integrate them into the ongoing proceedings. One of the adopted recommendations was for Trial Chambers to require parties to have a proper and consistent routine of notice and dissemination of written statements that are tendered in lieu of oral testimony. Another was for Trial Chambers to require parties to submit motions for the admission of evidence in as efficient a manner as possible, to encourage agreement between the parties on uncontested facts, and to facilitate the taking of judicial notice of adjudicated facts. Other adopted recommendations included Trial Chambers dealing with all procedural and administrative matters outside of the courtroom, making greater use of oral rulings in lieu of written decisions, prioritizing translations in order of importance, and avoiding superfluous translations. Finally, at the time when less than six trials are heard simultaneously, Trial Chambers will increase their sitting times in the remaining cases, as more courtroom time becomes available.

2. Capacity-building and legacy

8. The President continued to advance the capacity-building of national jurisdictions, as a priority of the Tribunal's legacy strategy. In February 2010, the Tribunal organized a donor-funded conference that gathered more than 350 participants from the international community and the countries of the former Yugoslavia to discuss aspects of the Tribunal's legacy, particularly in the region. On 1 May, the Tribunal and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe launched a joint 18-month project funded by the European Union aimed at assisting the national judiciaries of the region in securing their capacity to investigate, prosecute and adjudicate war crimes cases, including a project to translate trial transcripts and research tools into the languages of the region. The Tribunal is also preparing for the establishment of information centres under local ownership in the former Yugoslavia.

3. Diplomatic relations and other representation

9. The President was actively involved in cooperation and outreach activities to secure support for the Tribunal's work and increase its international profile.

10. On 10 September 2009, the President participated in a discussion on the role of regional courts and commissions in the international justice system at the Consultative Conference on International Criminal Justice at United Nations Headquarters in New York. On 23 September, the President spoke at the launch of the report entitled "Supporting the Transition Process: Lessons Learned and Best Practices in Knowledge Transfer". In his speech, the President emphasized that partnerships with the national judiciaries of the region form an integral part of the Tribunal's completion strategy, as well as a key legacy goal.

11. On 8 October, the President addressed the General Assembly regarding the Tribunal's sixteenth annual report (A/64/205-S/2009/394). On 16 October, the President delivered a speech at the opening of the Academic Year of Social Sciences Faculties at the University Roma Tre in Rome. The President discussed the right to a fair trial in international law, with specific reference to the work of the Tribunal.

12. On 19 November, the President, the Prosecutor and the Registrar held a biannual diplomatic briefing, attended by some 70 embassy representatives and members of the diplomatic community in The Hague. The briefing focused on the latest developments at the Tribunal and the progress made towards the implementation of its completion strategy.

13. On 3 December, the President addressed the Security Council regarding the twelfth report of the Tribunal on its completion strategy (S/2009/589).

14. From 25 to 27 January 2010, the President received at the Tribunal the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, Patricia O'Brien. The President, the Vice-President, the Prosecutor and the Registrar met with the Legal Counsel to discuss the progress of trials pending before the Tribunal, the strategy for completion of the Tribunal's mandate, and its plans to preserve its legacy.

15. On 23 February, the President opened the Conference on Assessing the Legacy of the Tribunal. The purpose of the conference was to ensure wide consultation on the key elements of the Tribunal's legacy in the region of the former Yugoslavia and beyond.

16. From 31 May to 11 June, the President, the Prosecutor and the Registrar attended the first Review Conference of the Rome Statute in Kampala, at the invitation of the President of the Assembly of States Parties to the Rome Statute of the International Criminal Court. The President and the Registrar attended a number of meetings, at which they shared their knowledge of and experience with the functioning of an international tribunal and of international criminal proceedings.

17. From 14 to 17 June, the President met with United Nations officials and diplomatic representatives in New York to discuss issues relevant to the work of the Tribunal. Together with the Registrar, the President met with United Nations Headquarters officials, and representatives of the European Union, Germany, Austria, Spain and the United Kingdom of Great Britain and Northern Ireland to discuss staffing and budgetary issues. Of particular significance was the United Nations Controller's interpretation of General Assembly resolution 63/256, by which the Assembly appears to authorize the Tribunal to offer contracts to staff in line with the prevailing trial schedules. This measure would have assisted the Tribunal in retaining its highly experienced staff, but the Tribunal had been told by the budgetary authorities at United Nations Headquarters that the Tribunal cannot offer contracts to staff that are not tied to approved budgetary submissions. The Tribunal hopes that the adoption of Security Council resolution 1931 (2010) will motivate relevant United Nations bodies to take immediate action to adopt appropriate measures to assist the Tribunal in retaining its qualified staff. If measures are not taken now, experienced staff will continue to leave the Tribunal and the completion strategy will be jeopardized.

18. In June 2010, the President, the Prosecutor and the Registrar also participated in a meeting of the Security Council's Informal Working Group on International Tribunals. On 18 June, the President addressed the Security Council regarding the thirteenth report of the Tribunal on its completion strategy (S/2010/270).

19. From 5 to 7 July, the President conducted a mission to Croatia at the invitation of the country's Supreme Court, during which he met with the Chief Justice of the Croatian Supreme Court and conducted a round-table discussion with other judges. He also met with the President of Croatia, the Minister of Justice, the Head of the Ministry of Justice's Office for Cooperation with International Criminal Courts, and other representatives of the international community and non-governmental sector. The visit was part of the President's continuing efforts to intensify knowledge-sharing and cooperation with local judiciaries as a key part of the Tribunal's legacy.

4. Judicial activity

20. By virtue of the powers vested in him by the statute, the rules, and the practice directions of the Tribunal, the President issued numerous orders assigning cases to Chambers and reviewed several decisions of the Registrar. The President also granted five requests for pardon, commutation of sentence, and early release of persons convicted by the Tribunal, and rejected four such applications.

B. Bureau

21. Pursuant to rule 23 of the rules, the Bureau is composed of the President, the Vice-President and the presiding judges of the Trial Chambers. The President consulted the Bureau on issues relating to the functioning of the Tribunal; the amendment of practice directions; and requests for pardon, commutation, and early release of convicted persons serving their sentences.

C. Coordination Council

22. Pursuant to rule 23 bis of the rules, the Coordination Council consists of the President, the Prosecutor and the Registrar. During the reporting period, the Council met regularly to discuss, inter alia, the Tribunal's completion strategy, staff retention, translation priorities, legacy activities, communications policy, and the work of the Security Council's Informal Working Group on International Tribunals with respect to the Tribunal's residual mechanism.

D. Plenary sessions

23. During the reporting period, the judges held one regular plenary session and three extraordinary plenary sessions. At the extraordinary plenary session of 26 October 2009, Judge Patrick Robinson (Jamaica) and Judge O-Gon Kwon (Republic of Korea) were re-elected to the positions of President and Vice-President of the Tribunal, respectively. At the 38th regular plenary session, held on 10 December 2009, the judges adopted a new rule of procedure and evidence — rule 92 quinquies — in order to regulate the admission of evidence in a trial where witnesses have been made unavailable owing to intimidation and bribery. At the extraordinary plenary session of 18 February 2010, the judges discussed the issue of the declassification of the Tribunal's confidential court records, pursuant to the request of the Security Council following the report of the Secretary-General on the

residual mechanism, of 21 May 2009.[1] At the extraordinary plenary session of 7 June 2010, the judges adopted the recommendations of the Working Group on Speeding Up Trials.

E. Rules Committee

24. The judicial membership of the Rules Committee comprises Judge Carmel Agius (Chair), President Patrick Robinson, Vice-President O-Gon Kwon, and Judges Kevin Parker, Alphons Orie and Christoph Flügge. The non-voting members include the Prosecutor, the Registrar, and a representative of the Association of Defence Counsel. During the reporting period, the Rules Committee met seven times on the following dates to discuss proposals to the rules and make recommendations to the judges: 25 September, 10 November and 14 December 2009 and 21 and 26 January, 9 March and 7 June 2010.

F. Residual mechanism

25. On 21 May 2009, the Secretary-General issued his report on the residual mechanism (S/2009/258) and, on 8 October 2009, the Secretary-General advised the Tribunal of the Security Council's endorsement of the recommendations therein and requested the Tribunal to comply with the recommendation in paragraph 259 (m) and to report upon the Tribunal's implementation of the tasks identified in paragraph 259 (l) pertaining to the residual mechanism. In its biannual reports to the Security Council (S/2009/589 and S/2010/270), the Tribunal reported upon its implementation of each of these recommendations. Moreover, the Tribunal continued to respond diligently to requests for information from the Office of the Legal Counsel with respect to the development of a residual mechanism, as the Tribunal draws closer to the completion of its mandate.

III. Activity of Chambers

A. Composition of the Chambers

26. Today, the Tribunal has 27 judges from 26 countries. The Chambers are composed of 14 permanent judges, two permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber, and 11 ad litem judges.

27. The permanent judges are Patrick Robinson (President, Jamaica), O-Gon Kwon (Vice-President, Republic of Korea), Kevin Parker (Presiding, Australia), Alphons Orie (Presiding, Netherlands), Fausto Pocar (Italy), Liu Daqun (China), Theodor Meron (United States of America), Carmel Agius (Malta), Jean-Claude Antonetti (France), Bakone Justice Moloto (South Africa), Christoph Flügge (Germany), Burton Hall (Bahamas), Howard Morrison (United Kingdom) and

[1] Report of the Secretary-General on the administrative and budgetary aspects of the options for possible locations for the archives of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and the seat of the residual mechanism(s) for the Tribunals (S/2009/258).

Guy Delvoie (Belgium). The permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber are Mehmet Güney (Turkey) and Andrésia Vaz (Senegal). Judges Guy Delvoie (Belgium), Howard Morrison (United Kingdom) and Burton Hall (Bahamas) were appointed during the reporting period to replace judges Christine Van Den Wyngaert (Belgium), Iain Bonomy (United Kingdom) and Mohamed Shahabuddeen (Guyana), who resigned from the Tribunal.

28. During the reporting period, the following have served as ad litem judges: Janet Nosworthy (Jamaica), Árpád Prandler (Hungary), Stefan Trechsel (Switzerland), Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), Kimberly Prost (Canada), Ole Bjørn Støle (Norway), Frederik Harhoff (Denmark), Flavia Lattanzi (Italy), Pedro David (Argentina), Michèle Picard (France), Uldis Ķinis (Latvia), Elizabeth Gwaunza (Zimbabwe), Melville Baird (Trinidad and Tobago) and Prisca Matimba Nyambe (Zambia).

29. The following judges served in the Trial Chambers during the reporting period: Judges Kwon (Presiding), Parker (Presiding), Orie (Presiding), Agius (Presiding), Antonetti (Presiding), Moloto (Presiding), Flügge (Presiding), Hall (Presiding), Morrison, Delvoie, Nosworthy, Prandler, Trechsel, Mindua, Prost, Støle, Harhoff, Lattanzi, David, Picard, Ķinis, Gwaunza, Baird and Nyambe.

30. The Appeals Chamber is composed of judges Robinson (Presiding), Güney, Pocar, Liu, Vaz, Meron and Agius.

B. Principal activity of the Trial Chambers

1. Trial Chamber I

(a) Pretrial

31. There are no pretrial cases pending before Trial Chamber I.

(b) Trial

Gotovina, Čermak, and Markač

32. The accused are charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia in 1995. The Trial Chamber is composed of judges Orie (presiding), Ķinis and Gwaunza. The trial commenced on 10 March 2008. The hearing of evidence has been concluded, final briefs were submitted on 16 July 2010, and final oral arguments will be heard at the end of August or the beginning of September 2010.

Perišić

33. Momčilo Perišić is charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Sarajevo and Srebrenica (Bosnia and Herzegovina), as well as in Zagreb (Croatia) between August 1993 and November 1995. The Trial Chamber is composed of judges Moloto (presiding), David and Picard. The trial commenced on 2 October 2008. The prosecution concluded its case on 25 January 2010 and the defence started its case on 22 February 2010.

J. Stanišić and Simatović

34. Jovica Stanišić and Franko Simatović are charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia and Bosnia and Herzegovina between April 1991 and December 1995. The Trial Chamber is composed of judges Orie (presiding), Picard and Gwaunza. The trial commenced on 28 April 2008, but was adjourned by order of the Appeals Chamber of 16 May 2008 because of the health of Stanišić. The trial recommenced on 2 June 2009 and is currently in the prosecution case-in-chief.

(c) Contempt

Hartmann

35. Florence Hartmann was charged with contempt of the Tribunal for disclosing two confidential decisions of the Appeals Chamber. The Trial Chamber was composed of judges Moloto (presiding), Güney and Liu. The judgement was issued on 14 September 2009, and the accused was convicted and sentenced to pay a fine of €7,000.

2. Trial Chamber II

(a) Pretrial

Šešelj

36. On 3 February 2010, the Trial Chamber issued an order in lieu of an indictment charging Vojislav Šešelj with contempt for having disclosed in a book information that may identify 11 protected witnesses in violation of orders of a Chamber. An initial appearance and a further initial appearance were held on 29 April 2010 and 6 May 2010, respectively. At the further initial appearance, a plea of not guilty was entered on the accused's behalf. The case is currently being readied for trial.

(b) Trial

Popović et al.

37. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin and Vinko Pandurević were charged with genocide, conspiracy to commit genocide, crimes against humanity, and a violation of the laws or customs of war. Radivoje Miletić and Milan Gvero were charged with crimes against humanity and a violation of the laws or customs of war. The crimes charged were allegedly committed in Bosnia and Herzegovina in 1995. The Trial Chamber composed of judges Agius (presiding), Kwon, Prost and Støle (reserve) issued its judgement in the case on 10 June 2010. Each of the seven accused was found guilty on certain of the charges. Vujadin Popović and Ljubiša Beara were each sentenced to life imprisonment; Drago Nikolić was sentenced to 35 years' imprisonment; Radivoje Miletić to 19 years' imprisonment; Ljubomir Borovčanin to 17 years' imprisonment; Vinko Pandurević to 13 years' imprisonment; and Milan Gvero to 5 years' imprisonment.

Đorđević

38. Vlastimir Đorđević is charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Kosovo in 1999. The accused was arrested on 17 June 2007, and the trial commenced on 27 January 2009. The Trial Chamber is composed of judges Parker (presiding), Flügge and Baird. The prosecution closed its case on 28 October 2009. The defence case opened on 30 November 2009 and was completed on 20 May 2010. Final trial briefs were filed on 30 June 2010, and closing arguments were heard on 13 and 14 July. The case is currently at the stage of judgement drafting.

M. Stanišić and Župljanin

39. Mićo Stanišić and Stojan Župljanin are both charged with 10 counts of crimes against humanity and violations of the laws or customs of war allegedly committed from April to December 1992 in Bosnia and Herzegovina. The Trial Chamber is composed of judges Hall (presiding), Delvoie and Harhoff. The trial commenced on 14 September 2009, and the case is currently hearing the prosecution's case-in-chief.

Tolimir

40. Zdravko Tolimir is charged with genocide, conspiracy to commit genocide, crimes against humanity, and a violation of the laws or customs of war allegedly committed in Bosnia and Herzegovina in 1995. The Trial Chamber is composed of judges Flügge (presiding), Mindua and Nyambe. The trial commenced on 26 February 2010, and the case is currently hearing the prosecution's case-in-chief.

(c) Contempt

Šešelj

41. On 21 January 2009, Trial Chamber II issued an order in lieu of indictment charging Vojislav Šešelj with contempt for having disclosed, in a book authored by him, confidential information in violation of orders granting protective measures to three witnesses, as well as by disclosing excerpts of one of their written statements. The trial was held on 29 May 2009. In a judgement delivered on 24 July 2009, Šešelj was found guilty of contempt of the Tribunal and sentenced to 15 months in prison.

3. Trial Chamber III

(a) Pretrial

42. There are no pretrial cases pending before Trial Chamber III.

(b) Trial

Karadžić

43. Radovan Karadžić is charged under 11 counts with genocide, crimes against humanity, and violations of the laws or customs of war allegedly committed in Bosnia and Herzegovina between 1992 and 1995. The Trial Chamber is composed of judges Kwon (presiding), Morrison, Baird and Lattanzi (reserve). The trial

commenced on 26 October 2009, and the case is currently hearing the prosecution's case-in-chief.

Šešelj

44. Vojislav Šešelj is charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia, Bosnia and Herzegovina and Vojvodina (Serbia) between August 1991 and September 1993. The Trial Chamber is composed of judges Antonetti (presiding), Harhoff and Lattanzi. The trial started anew on 7 November 2007. In its decision of 11 February 2009, the Trial Chamber adjourned, at the prosecution's request, the hearing of certain witnesses. The trial resumed on 23 November 2009. The prosecution's case is anticipated to conclude in September 2010, and the Chamber expects to issue any decision on an anticipated motion for judgement of acquittal in December 2010.

Prlić et al.

45. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić are charged with grave breaches of the Geneva Conventions, crimes against humanity, and violations of the laws or customs of war allegedly committed from November 1991 to April 1994 in Bosnia and Herzegovina. The Trial Chamber is composed of judges Antonetti (presiding), Prandler, Trechsel and Mindua (reserve). The trial commenced on 26 April 2006, and the defence case was completed in May 2010. The Chamber is currently seized of a prosecution motion to reopen its case-in-chief.

(c) Contempt

Tabaković

46. The accused was charged with contempt of the Tribunal for allegedly providing a false statement in exchange for payment. The Trial Chamber was composed of judges Parker (presiding), Hall and Morrison. Tabaković entered a plea of guilty, and judgement was rendered on 15 March 2010, Tabaković being sentenced to three months of imprisonment.

4. Rule 11 bis Referral Bench

47. The rule 11 bis Referral Bench is composed of judges Orie (presiding), Kwon and Parker. There was a request by Gojko Janković to revoke the previous rule 11 bis referral decision and return his case to the Tribunal. The request was denied on 21 June 2010.

5. Rule 75 (H) Bench

48. The bench constituted to decide requests for confidential information for use in national proceedings under rule 75 (H) is composed of judges Moloto (presiding), Flügge and Morrison. The rule 75 (H) Bench continued to function in an efficient manner, rendering 12 decisions during the reporting period.

C. Principal activity of the Appeals Chamber

Interlocutory appeals

49. Twenty decisions on interlocutory appeals were issued in the following cases: *Karadžić* (5); *Gotovina et al.* (5); *Popović et al.* (3); *Prlić et al.* (5); *Tolimir* (1); and *Stanišić and Simatović* (1). Three interlocutory appeals are currently pending in the following cases: *Gotovina et al.* (1); *Prlić et al.* (1); and *Šešelj* (1).

Contempt appeals

50. One contempt appeal judgement was issued in the *Šešelj* case. One contempt appeal is currently pending in the *Hartmann* case.

Appeals on the merits

51. The Appeals Chamber rendered three final judgements in the cases of *Dragomir Milošević, Boškoski and Tarčulovski*, and *Haradinaj et al.*

52. On 12 November 2009, the Appeals Chamber granted D. Milošević's appeal in part and reduced his sentence from 33 to 29 years' imprisonment. The prosecution's sole ground of appeal, which requested that D. Milošević be sentenced to life imprisonment, was dismissed in its entirety.

53. On 19 May 2010, the Appeals Chamber dismissed all seven grounds of Johan Tarčulovski's appeal and affirmed the 12-year sentence of imprisonment handed down at trial. The prosecution's appeal regarding the acquittal of Ljube Boškoski was dismissed.

54. On 19 July 2010, the Appeals Chamber, by majority, granted the prosecution's request for a reversal of the Trial Chamber's decision to acquit Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj on certain counts in the indictment. The Appeals Chamber therefore ordered a partial re-trial of the case.

55. There is one appeal — *Šainović et al.* — currently pending before the Appeals Chamber from the previous reporting period, and one new appeal from judgement was filed before the Appeals Chamber in the *Lukić and Lukić* case. Pre-appeal activity is ongoing in both of these cases.

56. Rasim Delić passed away on 16 April 2010, while on provisional release and while the appeals filed by both parties were being decided. On 29 June 2010, the Appeals Chamber denied a defence motion for continuation of the appeal proceedings, and the proceedings were terminated by the Appeals Chamber's decision of the same date.

57. A total of 102 pre-appeal decisions and orders were issued during the reporting period.

Review

58. One review is currently pending in the *Šljivančanin* case, and the Appeals Chamber conducted a review-related hearing in that case.

Other appeals

59. The Appeals Chamber rendered four decisions on other appeals in *Mrkšić and Šljivančanin* (2), *Perišić* (1) and *Prlić et al.* (1).

IV. Activity of the Office of the Prosecutor

A. Completion of trials and appeals

60. The Prosecutor's foremost priority continues to be the conclusion of all remaining trials and appeals in accordance with the Tribunal's completion strategy. During the reporting period, significant progress was made. The remaining nine trials are currently ongoing in the Tribunal's three courtrooms, with no more cases in pretrial. This is an important milestone for the Tribunal.

61. Judgement in *Popović et al.*, the second multi-accused leadership case, was rendered on 10 June 2010. On 14 July 2010, the *Đorđević* case closed, while *Gotovina et al.* is close to completion. *Prlić et al.*, the last multi-accused case, and *Perišić* will finish with the evidence phase in the next reporting period. The evidence phase of the *Karadžić*, *Šešelj*, *Stanišić and Simatović*, *Stanišić and Župljanin*, and *Tolimir* trials will continue into 2011.

62. Appeal judgements were rendered in *Dragomir Milošević* and *Boškoski and Tarčulovski* during the reporting period. On 29 June 2010, the Appeals Chamber terminated the *Delić* appellate proceedings, given the death of the accused. The trial judgement is therefore final. The appeal judgement in *Haradinaj et al.* was rendered on 21 July 2010, and a partial re-trial ordered. In the next reporting period, the *Lukić and Lukić* and *Šainović et al.* appeals will be argued.

63. Two fugitives — Ratko Mladić and Goran Hadžić — remain at large. On 15 October 2009, the Office of the Prosecutor severed the *Mladić* indictment from the *Karadžić* indictment, and streamlined it. The updated indictment, which was presented to the confirming judge on 10 May 2010, will allow the case against Mladić to proceed more efficiently when he is arrested and tried.

64. The Office of the Prosecutor is working at full capacity to prosecute trials and appeals efficiently and expeditiously. Emphasis is given to presenting evidence through witness statements and documents instead of viva voce testimony. Unfortunately, delays in several trials could not be avoided. Difficulties with witness availability, the unpredictable length of defence cases, and resource constraints have affected the speed of trials. Several cases were adjourned to allow prosecution and defence teams time to translate and analyse a large volume of new and important evidence from Serbia.

B. Cooperation

1. International cooperation

65. The Office of the Prosecutor continues to seek the full cooperation of States to fulfil its mandate. The cooperation of the States of the former Yugoslavia remains vital in the areas of (a) access to archives, documents and witnesses; (b) the

protection of witnesses; and (c) efforts to locate, arrest and transfer the two remaining fugitives (including taking measures against those who support them).

2. Cooperation of Serbia

66. Over the reporting period, the Office of the Prosecutor required Serbia's support in ongoing trials and appeals. The Office of the Prosecutor also sought Serbia's assistance in the critical matter of apprehending the two fugitives.

67. Serbia's responses to the Office of the Prosecutor's requests for access to documents, archives, and witnesses have generally been timely and adequate. As trials and appeals progress, the Office of the Prosecutor encourages Serbia to continue to provide unhindered access to its documents and archives. The Serbian authorities have also continued to facilitate the appearance of witnesses before the Tribunal, including serving summonses on individuals. The Serbian Office of the War Crimes Prosecutor and law enforcement bodies acted promptly in response to concerns communicated by the Office of the Prosecutor about the alleged intimidation and threatening of prosecution witnesses.

68. On 23 February 2010, Serbian authorities conducted a search of the apartment of Ratko Mladić's wife. Items including 18 notebooks containing Ratko Mladić's handwritten wartime notes, and associated tapes, were seized. The notebooks contain over 3,000 handwritten pages. The Government of Serbia provided the prosecution with scanned images of the Mladić notebooks in March 2010, and delivered the original notebooks and tapes early in May 2010. The notebooks contain highly valuable information, which is currently being submitted as evidence in a number of cases.

69. The most critical outstanding aspect of Serbia's assistance to the Office of the Prosecutor remains the apprehension of the two fugitives.

70. Throughout the reporting period, the Serbian agencies in charge of locating and arresting the fugitives regularly apprised the Office of the Prosecutor of their work. Their briefings covered the scope and nature of measures taken, investigative avenues pursued, and operations conducted. Despite the Office of the Prosecutor's hope that the operational services' efforts would produce additional positive outcomes, few tangible results have been achieved. After carefully examining the operational activities conducted, the Office of the Prosecutor strongly recommended an in-depth review of the strategies employed. The Office of the Prosecutor asked Serbian authorities to expand search efforts by broadening their investigations, intensifying search operations, and increasing their operational capacity. Decisive and intensified action by the operational services and political authorities is critical for obtaining the arrest of the two fugitives.

71. On 14 June 2010, the Prosecutor expressed these concerns at the Foreign Affairs Council of the European Union. The support of the international community, in particular the European Union, in securing the cooperation of States will remain essential in the future.

3. Cooperation of Croatia

72. Croatia has been generally responsive to the needs of the Office of the Prosecutor. However, the prosecution's long-standing request for important military documents relating to Operation Storm in 1995 remains outstanding.

73. The Government of Croatia created an inter-agency Task Force in October 2009 to examine concerns communicated by the Office of the Prosecutor about identified shortcomings in the administrative investigation of the missing military documents and to locate, or account for, those records. The Task Force has since submitted seven reports to the Office of the Prosecutor. The Office of the Prosecutor noted a general improvement in the quality of Croatia's administrative investigation, in terms of the manner in which interviews are conducted. However, the investigation failed to provide a full account of the whereabouts of the requested documents. None of the missing documents has yet been provided.

4. Cooperation of Bosnia and Herzegovina

74. The authorities of Bosnia and Herzegovina continued to respond adequately to requests for assistance regarding documents and access to government archives. The authorities also continued to assist by facilitating the appearance of witnesses before the Tribunal. The Office of the Prosecutor encourages the authorities of Bosnia and Herzegovina to continue taking measures against those supporting fugitives.

75. The Office of the Prosecutor is concerned that Radovan Stanković, who was indicted by the Tribunal for crimes against humanity and war crimes, including rape, remains at large. The Tribunal transferred Stanković to Bosnia and Herzegovina in May 2005, pursuant to rule 11 bis of the rules. He escaped from prison while serving a 20-year sentence in Foča. Although the Court of Bosnia and Herzegovina has convicted three persons for assisting Stanković's escape, the Office of the Prosecutor encourages the authorities of Bosnia and Herzegovina, as well as neighbouring States, to take all necessary measures to apprehend him.

76. The Office of the Prosecutor continued to support the ongoing prosecution of war crimes cases in Bosnia and Herzegovina and, in particular, the work of the State Prosecutor and the Special Department for War Crimes. Their offices prosecute rule 11 bis cases and receive investigative material transferred by the Office of the Prosecutor. The Prosecutor welcomes the decision of December 2009 to extend the mandates of international personnel and support staff, but regrets that the delays in extending mandates have had a negative impact on the work of the Special Department for War Crimes.

77. Throughout the reporting period, political figures made statements supporting individuals convicted of violations of international humanitarian law, and denying the existence of judicially confirmed crimes. Such statements are unacceptable and damaging, and directly affect cooperation with the Tribunal. They discourage witnesses from giving evidence, and undermine efforts aimed at reconciling and stabilizing the region.

5. Cooperation of other States and organizations

78. The Office of the Prosecutor relies upon States and international organizations to provide documents, information and witnesses for trials and appeals. The international community's assistance with witness protection and, when necessary, witness relocation, is also essential.

79. The Office of the Prosecutor appreciates the support of States and of international and regional organizations such as the European Union, the Organization for Security and Cooperation in Europe, the Council of Europe, and

non-governmental organizations, including those active in the former Yugoslavia. This support will remain crucial.

C. Transfer of cases and investigative files

80. All rule 11 bis cases have been transferred to the region. The Tribunal continues to monitor their progress. Five of the six cases transferred to Bosnia and Herzegovina have concluded with final decisions, while the one case transferred to Croatia has concluded. The *Kovačević* proceedings transferred to Serbia remain suspended, pending a determination of the accused's fitness to stand trial.

81. The Office of the Prosecutor completed the transfer of all investigative dossiers to regional authorities late in 2009. Seventeen case files with investigative material on 43 suspects were transferred to the prosecutors' offices in Bosnia and Herzegovina, Croatia and Serbia. The Office of the Prosecutor provided comprehensive follow-up assistance, and facilitated access to evidence available in The Hague.

82. Throughout the reporting period, the Office of the Prosecutor regularly received requests for assistance from States and international organizations involved in war crimes cases. A number of these requests were complex, and required considerable research and attention. Many requests were submitted by national judicial authorities throughout the former Yugoslavia.

D. Supporting national prosecutions

83. The Office of the Prosecutor has continued to strengthen relations with its regional counterparts by way of a "liaison prosecutors" project funded by the European Union. In June 2009, three prosecutors from the region (one from Bosnia and Herzegovina, one from Croatia, and one from Serbia) began working as liaison prosecutors within the Office of the Prosecutor. Although they work on their own cases, the liaison prosecutors consult with prosecution experts and other personnel on related cases and general issues. The liaison prosecutors also act as contact points for other national prosecutors who are working on war crimes files.

84. Cooperation in judicial matters among the States of the former Yugoslavia is critical to the fulfilment of the Tribunal's mandate. Despite some improvements over the past year, legal obstacles to cooperation still exist. This situation threatens the successful investigation and prosecution of war crimes cases. The Office of the Prosecutor actively supports the development of mechanisms to strengthen regional cooperation. To this end, it engages in ongoing dialogue with its counterparts throughout the former Yugoslavia, and supports various training, best practices, and information exchange initiatives.

V. Activity of the Registry

85. During the reporting period, the Registry continued to discharge its statutory responsibilities by providing operational support to the Chambers and the Office of the Prosecutor, administering the Tribunal, and acting as its channel of

communication.[2] While his main areas of responsibility remained unchanged, the Registrar was confronted with new challenges and priorities, such as the downsizing of the Tribunal's staff and its legacy. He therefore decided to merge sections and to redistribute functions within the Registry in order to streamline their operations and achieve increased efficiency, in line with the completion strategy.

A. Office of the Registrar

86. The Immediate Office of the Registrar now includes the Deputy Registrar and a Chief of Office. In addition to coordinating the work of the various Registry sections described below, the Immediate Office of the Registrar handled a vast range of legal, policy, and operational matters, such as drafting and implementing the Tribunal's downsizing policies. Focused efforts were also deployed to retain staff to complete the Tribunal's mandate, to assist staff in the pursuit of their careers, to prepare the Tribunal's records for archiving, and to anticipate the transition from a full-fledged court to a residual mechanism.

87. The Communications Service — which falls under the Registrar's supervision and which is composed of a Media, Outreach and Web Section and a Library, Publications, Tribunet and Visits Section — managed major public events, such as the beginning of the trial of Radovan Karadžić, which aroused increased interest on the part of the media, academics and members of the general public. The Tribunal's outreach programme, which marked its tenth anniversary at the end of 2009, continued to raise awareness of the work of the Tribunal and to cement the Tribunal's legacy throughout the region. This was achieved through activities such as the coordination of more than 20 visits with more than 400 visitors from the region to The Hague and the participation at some 20 conferences and events across the region; one of the programme's highlights was a round of presentations in 15 Kosovo high schools for more than 350 students. The Tribunal's website was further developed as an information and legacy tool through the inclusion of a number of new features and the ongoing translation of existing and new material into Bosnian/Croatian/Serbian and French. The Library, Publications, Tribunet and Visits Section welcomed an all-time high number of visitors (more than 7,500) and further developed the internal communication portal Tribunet as a reference platform on all issues related to the completion strategy. In order to increase the impact of the internal and external communication policies, with a renewed focus on outreach, the Registry will revamp the communication structures and policies during the upcoming period.

B. Judicial support services sections

88. In the reporting period, the Court Management and Support Services Section supported 10 first instance trials, 6 appeals, and 5 contempt cases. It provided Court Officer support for 16 videoconference links and assisted with seven rule 92 bis missions. The Section also provided support through its *Pro Se* Legal Liaison Officers for three self-representing accused, facilitating solutions to issues arising in the course of the proceedings. During this period, the Court Records Assistants,

[2] Article 17 (1) of the statute of the Tribunal and rule 33 (A) of the Rules of Procedure and Evidence.

Court Officers and Court Ushers processed 7,645 filings submitted by parties and others in proceedings before the Tribunal.

89. In September 2009, the Archives and Records Management Unit was transferred under the operational responsibility of the Court Management and Support Services Section. Since then, the focus of the Unit has been to establish a records management system consistent with the United Nations Archives and Records Management System and to ensure that an information security strategy is in place to properly manage the Tribunal's records. In addition, during the reporting period, the Tribunal finalized a contract for the digitization of more than 60,000 hours of audio-visual records of its proceedings, and the project is well under way.

90. The Conference and Language Services Section continued to provide interpretation, translation, and court reporting services for all the organs of the Tribunal. The Translation Units translated approximately 60,000 pages into English, French, Bosnian/Croatian/Serbian, Albanian and Macedonian, and work on several lengthy documents is ongoing. The Interpretation Unit registered close to 6,000 conference interpreter days. The Court Reporting Services produced over 100,000 pages of transcript. Interpretation services were also provided for official meetings, witness proofing sessions, and missions away from the seat of the Tribunal, including in the region.

91. The Victims and Witnesses Section consists of three main units. The Section's Operations and Support Units facilitated 594 witnesses, and accompanying support persons, travelling to The Hague to give evidence. The Protection Unit coordinated professional responses to an increased number of threats to witnesses before, during and after their appearance at the Tribunal; when needed, the Protection Unit worked to relocate protected witnesses.

92. The Office for Legal Aid and Detention Matters serviced over 480 defence team members assigned or appointed to 40 accused in 17 cases in pretrial, trial and appellate proceedings. It also provided tailored assistance to self-represented accused, developing specific policies in conjunction with the *Pro Se* Legal Liaison Office and the United Nations Detention Unit. The Office facilitated legal representation for suspects during interviews with the prosecution, as well as for convicted persons or witnesses detained at the Detention Unit. The Office continued to manage the enforcement of sentences of persons convicted by the Tribunal, including transfer of convicted persons to States to serve their sentences, liaising with the various inspecting bodies regarding conditions of detention, and assisting the Office of the President with applications for pardon, commutation of sentence and early release. Finally, the Office for Legal Aid and Detention Matters supported the defence teams by expanding and improving the quality of information technology facilities available to them.

93. The United Nations Detention Unit continued to operate at a high level of activity, serving the judicial process on a daily basis for the accused in the trial phase and providing secure custodial care to all detained persons: the increase in the number of detainees on appeal has required considerable management because detainees are less occupied with court proceedings and become more concerned with their custodial situation. Additional challenges included an aging detainee population (average age over 58 years), which has resulted in increased, complex medical and health-care issues; a large number of requests for provisional releases of various durations; and the facilitation of additional needs of several self-

representing accused, detained witnesses, and detainees charged with contempt of the Tribunal.

C. Division of Administration

94. The General Assembly, having considered the reports of the Secretary-General and the Advisory Committee on Administrative and Budgetary Questions on revised budgetary estimates, decided to appropriate to the Special Account for the Tribunal an amount of $290,285,500 gross ($268,265,300 net) for the biennium 2010-2011 (resolution 64/240). During the biennium 2010-2011, extrabudgetary resources are estimated at $2,086,000, to be utilized for a variety of Tribunal activities. As at 15 June 2010, cash donations of approximately $47.4 million had been received for the Voluntary Fund to support the activities of the Tribunal. For the period from 15 June 2009 to 15 June 2010, the Tribunal received $1,788,900 in voluntary cash contributions.

95. The Division of Administration was actively engaged in the implementation of the downsizing process and comparative review process, as designed in consultation with staff representatives. The Division was also responsible for coordinating the preparation of the second performance report for the biennium 2008-2009 and the submission of the revised estimates for the biennium 2010-2011 to support the revised trial forecast in terms of post and non-post items. In further preparation for the downsizing and eventual closure of the Tribunal, the Division started drafting the liquidation plans for the offices and prepared a space allocation master plan in order to reallocate and maximize the use of space at all times during the downsizing.

96. An asset disposal plan was drafted and forwarded to the Property Survey Board at United Nations Headquarters for approval in order to facilitate a more efficient and timely write-off and final disposal of assets.